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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,916	01/25/2002	William Blyshak	8266-0744	3746

7590 06/15/2004

Intellectual Property Group  
Bose McKinney & Evans LLP  
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135 North Pennsylvania Street  
Indianapolis, IN 46204

EXAMINER
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TRETTEL, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/056,916

Applicant(s)

BLYSHAK ET AL.

Examiner

Michael Trettel

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 and 54-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 and 22-42 is/are allowed.
- 6) ☒ Claim(s) 21,43-52,54-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21, 43, and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 recites the limitations "the housing" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 43 recites the limitations "the housing" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 51 recites the limitations "the second side" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim. Changing the dependency of this claim to claim 50 would overcome this rejection.

#### ***Claim Rejections - 35 USC § 102***

Claims 44 to 52 and 54 to 80 are rejected under 35 U.S.C. 102(b) as being anticipated by Dick (5,341,725). Dick shows a hydraulic actuator assembly 100 in Figure 2 that is of particular interest. The actuator comprises a housing 144 that supports a pair of opposed cylinders 114, 122 at each end. Pistons 112, 120 are supported within each cylinder and define chambers 116, 188 within cylinder 114 and chambers 124, 126 within cylinder 122. Hollow piston rods 128, 130 attach the pistons to one another through the housing 144. Piston rod 130 has a passage that fluidically connects chambers 118, 126 to one another, while rod 128 has a passage that fluidically connects chambers 116, 124 to one another. Note that the passage defined in rod 130 also passes through the heads of the pistons 112, 120. Fluid inlets 132, 134 are used to pressurize and remove hydraulic fluid from the chambers. By pumping fluid through inlet 134 chambers 118 and 122 are pressurized, while simultaneously fluid is sucked out of chambers 116, 124 by applying negative pressure to inlet 132. This extends the actuator by causing the cylinders 114, 122 to move outwardly relative to the housing 144. The actuator can be collapsed by reversing the above operation.

*Allowable Subject Matter*

Claims 21 and 43 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 1 to 20 and 22 to 42 are allowed.

### ***Response to Arguments***

Applicant's arguments with respect to claims 44 to 52 and 54 to 80 have been considered but are moot in view of the new ground(s) of rejection. As a result of new prior art found in an unrelated search the examiner has decided to proceed with a new rejection of the above claims under 35 USC §102(b). The applicant should also note the subject matter disclosed in the newly cited references. Because this is an entirely new rejection it will not be made final, so as to give the applicant ample opportunity to respond to the new grounds of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mills, Sharpe, Lowder et al, and Foster show hydraulic actuators that are of particular interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Application/Control Number: 10/056,916

Art Unit: 3673

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A handwritten signature in black ink, appearing to read "Michael Trettel", with a stylized flourish at the end.

Michael Trettel  
Primary Examiner  
Art Unit 3673